



ARCHITECTURE • URBAN PLANNING • ENGINEERING

Certification of Sponsor's Architect

March 5, 2009

New York State Department of Law  
Investment Protection Bureau  
Real Estate Financing Section  
120 Broadway, 23<sup>rd</sup> Floor  
New York, New York 10271

Re: One Hunters Point Condominium (the "Condominium")  
5-49 Borden Avenue, Long Island City, New York (the "Property")  
CD07-0082

To Whom It May Concern:

I, Mitchell D. Newman, am an Architect licensed to practice in the State of New York. This firm prepared a report dated January 16, 2007 describing the construction of the Property in connection with the submission of an offering for the sale of condominium units (the "Plan") by Borden East River Realty LLC ("Sponsor") which Plan was accepted for filing by the Department of Law on September 11, 2007.

We understand that this firm is responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in part 20 of Title 13 NYCRR.

The Sponsor has advised that the first residential unit closing has taken place prior to the issuance of a permanent certificate of occupancy. Pursuant to the requirements of Section 20.3(t)(12) of Title 13 NYCRR, Sponsor will need to deposit with the escrow agent the sum of \$ 300,000, which we estimate to be the amount reasonably needed to complete the outstanding work required to obtain a permanent certificate of occupancy more specifically [attach schedule describing work to be done and cost].



We certify that this letter:

1. Sets forth the required work to be completed to obtain a permanent certificate of occupancy.
2. Provides potential purchasers and current unit owners an adequate basis upon which to found their judgment concerning the condition of the Property as it will exist upon receipt of the permanent certificate of occupancy;
3. Does not omit any material facts;
4. Does not contain any fraud, deception, concealment or suppression;
5. Does not contain any promise or representation as to the future which is beyond reasonable explanation or unwarranted by existing circumstances; and
6. Does not contain any representation or statement which is false where we (i) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by and have no beneficial interest in the Sponsor and that our compensation for preparing this letter is not contingent on the Condominium receiving the permanent certificate of occupancy or on the profitability of the Sponsor. This letter is not intended as a guarantee or warranty of the total cost to obtain the permanent certificate of occupancy.

NDG Architect, P.C.

By: Mitchell D. Newman, A.I.A.  
President

Sworn to before me this 5<sup>th</sup>  
of March 2009

Elisa Spada  
Notary Public

Elisa Spada

ELISA SPADA  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01SP6137227  
Qualified in Nassau County  
My Commission Expires November 21, 2009



Date: March 5, 2009

RE: 5-49 Borden Avenue, Long Island City, NY

The following is the schedule of work to be completed for the above referenced project:

• Balcony/Terrace Glass Railings	\$20,000
• 9th Floor Terrace Waterproofing	20,000
• Interior Frame/Doors	5,000
• Painting	25,000
• Signage/Directory	20,000
• Privacy Screens	10,000
• Lobby	30,000
• Bathroom Mirrors	5,000
• Plumbing (Misc.)	25,000
• HVAC (Start-Up/Balancing/Misc.)	25,000
• Electrical	25,000
• Close-Out Paperwork	41,250
• Canopy	35,000
• Completion of Builders Pavement Plan & Planting of Street Trees (\$78,200 in separate escrow account by Sponsor with DOT/NYC Parks Dept.)	0
• Miscellaneous	<u>13,750</u>
<b>TOTAL</b>	<b>\$300,000</b>

**NEWMAN  
DESIGN**

ARCHITECTURE • URBAN PLANNING • ENGINEERING

**Certification of Sponsor's Architect**

March 19, 2009

New York State Department of Law  
Investment Protection Bureau  
Real Estate Financing Section  
120 Broadway, 23<sup>rd</sup> Floor  
New York, New York 10271

Re: Hunters View Condominium (the "Condominium")  
48-15 11th Street, Long Island City, New York 11101 (the "Property")  
CD07-0240

**To Whom It May Concern:**

I, Mitchell D. Newman, am an Architect licensed to practice in the State of New York. This firm prepared a report dated March 15, 2007 describing the construction of the Property in connection with the submission of an offering for the sale of condominium units (the "Plan") by 11/49 Realty LLC ("Sponsor") which Plan was accepted for filing by the Department of Law on September 11, 2007.

We understand that this firm is responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in part 20 of Title 13 NYCRR.

The Sponsor has advised that the first residential unit closing has taken place prior to the issuance of a permanent certificate of occupancy. Pursuant to the requirements of Section 20.3(t)(12) of Title 13 NYCRR, Sponsor will need to deposit with the escrow agent the sum of \$ \$110,000, which we estimate to be the amount reasonably needed to complete the outstanding work required to obtain a permanent certificate of occupancy more specifically [attach schedule describing work to be done and cost].



We certify that this letter:

1. Sets forth the required work to be completed to obtain a permanent certificate of occupancy.
2. Provides potential purchasers and current unit owners an adequate basis upon which to found their judgment concerning the condition of the Property as it will exist upon receipt of the permanent certificate of occupancy;
3. Does not omit any material facts;
4. Does not contain any fraud, deception, concealment or suppression;
5. Does not contain any promise or representation as to the future which is beyond reasonable explanation or unwarranted by existing circumstances; and
6. Does not contain any representation or statement which is false where we (i) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; (d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by and have no beneficial interest in the Sponsor and that our compensation for preparing this letter is not contingent on the Condominium receiving the permanent certificate of occupancy or on the profitability of the Sponsor. This letter is not intended as a guarantee or warranty of the total cost to obtain the permanent certificate of occupancy.

NDG Architect, P.C.

By: *Mitchell D. Newman*  
Mitchell D. Newman, A.I.A., President

Sworn to before me this 19<sup>th</sup>  
of March 2009

Elisa Spada  
Notary Public

*Elisa Spada*  
ELISA SPADA  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01SP6137227  
Qualified in Nassau County  
My Commission Expires November 21, 2009



Date: March 19, 2009

RE: 48-15 11th Street, Long Island City, NY

The following is the schedule of work to be completed for the above referenced project:

• Painting Touch-Up	5,000
• Signage	10,000
• Plumbing (Misc.)	10,000
• HVAC (Start-Up/Balancing/Misc.)	10,000
• Electrical (Misc.)	15,000
• Close-Out Paperwork	30,000
• Canopy	20,000
• Completion of Builders Pavement Plan & Planting of Street Trees (\$48,128 in separate escrow account by Sponsor with DOT/ NYC Parks Dept.)	0
• Miscellaneous	10,000
<b>TOTAL</b>	<b>\$110,000</b>

**Jose Rivera**

---

**From:** Jose Rivera  
**Sent:** Thursday, April 23, 2009 4:07 PM  
**To:** 'Thomas, William'; 'ledermanb@verizon.net'  
**Cc:** 'debrah.A.Reid@hud.gov'; 'Casey.Padzius@hud.gov'  
**Subject:** RE: ILS-32439; 11/49 Realty LLC and Simone Development Company LLC; Hunters View Condominium; I-09-097 and ILS-32438 and Borden East River Realty LLC and Simone Development Company LLC; One Hunters Point Condominium; I-09-096; I-09-131 and I-09-133

**Attachments:** HUD T C of OHabitability opinion (3).pdf

Good afternoon Ms. Padzius; Ms. Reid; and Mr. Williams:


Pursuant to your request transmitted herewith is a copy of our opinion.

Please note that the original is being sent via Federal Express.

Please let us know if you have any questions.

Thank you.

Best regards,  
Jose

 cid:image002.jpg@01C91CC7.5F57A9A0

Jose M. Rivera, Esq., Partner  
D'Agostino, Levine & Landesman, L.L.P.  
345 Seventh Avenue  
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New York, New York 10001  
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**From:** Thomas, William [mailto:William.Thomas@hud.gov]

**Sent:** Wednesday, April 22, 2009 3:46 PM

**To:** Jose Rivera; 'ledermanb@verizon.net'

**Subject:** ILS-32439; 11/49 Realty LLC and Simone Development Company LLC; Hunters View Condominium; I-09-097 and ILS-32438 and Borden East River Realty LLC and Simone Development Company LLC; One Hunters Point Condominium; I-09-096; I-09-131 and I-09-133

Bruce H. Lederman, Esquire  
Jose M Rivera, Esquire, Partner  
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345 Seventh Avenue, 23rd Floor  
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ILS-32439; 11/49 Realty LLC and Simone Development Company LLC; Hunters View Condominium; I-09-097

ILS-32438 and Borden East River Realty LLC and Simone Development Company LLC; One Hunters Point Condominium; I-09-096; I-09-131 and I-09-133

It was a pleasure to talk to the two of you again.

I appreciate the perspective that you have in representing your client as well as your recognition of the Department's position of addressing the public interest of the American consumer.

You indicated that you may be providing 24 CFR 1710.4(d) evidence of the exemptions at the time of first offering which they believe they are entitled to. However, as we discussed, in the event that your clients' amended response to the complaints involves a decision to address a potential settlement negotiation, please request that the complaints be transitioned to the Office of Finance and Regulatory Compliance Program Compliance Division for negotiation. At that point, I will prepare the detailed Case Summary and transfer the cases to that Division.

Also, since a potential outcome in the negotiation process may involve complete registration of both projects, you should also address the issues regarding the Advisory Opinions requested and paid for. Other than assembly of the materials for review and preparing the additional paragraphs in the e-mail dated April 20, 2009, to date, no real work has yet to be initiated. I was awaiting your amended request for the Advisory Opinion based on the April 20, 2009 e-mail. If you desire to withdraw your request for both properties, you can do so. If you do, please advise in a separate request letter for each subdivision. Once I receive your formal request, the process can then begin to get the moneys refunded.

Thank you for your and your client's past cooperation and the current willingness to proceed in a spirit

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of cooperation for both your client's and the public's interest.

*William J. Thomas*

William J. Thomas, MBA, Certified Paralegal  
Consumer Protection Compliance Specialist  
Office of RESPA/Interstate Land Sales  
Department of Housing and Urban Development  
Room 9154  
451 7th Street SW  
Washington DC 20410  
Phone: 202-402-3006  
Fax: 202-708-4559

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**D'AGOSTINO, LEVINE & LANDESMAN, L.L.P.**

*Attorneys At Law*  
345 Seventh Avenue • 23rd Floor  
New York, New York 10001

212-564-9800  
Fax 212-564-9802

JOHN D'AGOSTINO  
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KELLYANN S. MONAGHAN  
JARED B. VANVLEET  
JONATHAN D. GOTTLIEB\*  
JULIA L. WACHTER  
BROOKE N. ESTREN  
ERIC R. GARCIA

\* ALSO ADMITTED IN NJ  
♦ ALSO ADMITTED IN CT  
♦ ALSO ADMITTED IN MA

COUNSEL  
BRUCE H. LEDERMAN\*

WRITER'S E-MAIL:

jdagostino@dagll.com

April 23, 2009

**Via Federal Express (202) 708-0502 x. 3006**

Mr. William Thomas  
U.S. Department of Housing and Urban Development  
Office of RESPA and Interstate Land Sales  
451 Seventh Street, SW, Room 9154  
Washington, DC 20410

Re: ILS 32438 and ILS 32439, Borden East River Realty LLC ("Borden"), 11/49 Realty LLC ("11/49"), (collectively Borden and 11/49 are referred to as the "Developers") and Simone Development Company L.L.C., One Hunters Point Condominium ("Hunters Point"); I-09-096; I-09-131; and I-09-133, Hunters View Condominium, ("Hunters View") I-09-97 (collectively the "Projects")

Dear Mr. Thomas:

As you know we are counsel to Borden and 11/49.

As requested, this is our opinion regarding whether a residential condominium unit may be legally occupied in the City of New York upon the issuance of a temporary certificate of occupancy ("T C of O") but prior to the issuance of a permanent certificate of occupancy in the referenced Projects.

In connection with rendering this opinion we have reviewed the T C of O's issued by the New York City Department of Buildings for the Projects. Copies of said T C of O's are annexed herewith as Exhibits A and B. Our opinion is based upon the factual determinations made by NDG Architects, P.C. in its letter Dated April 10, 2009 a copy of which is annexed hereto as Exhibit C. We have made no independent investigation of the truth or accuracy of the factual determinations of NDG Architects, P. C.

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Mr. William Thomas  
April 23, 2009

Based upon our review of the foregoing and applicable laws of the State and City of New York as of the date of this letter, we can state that a residential condominium unit may be legally occupied and is physically habitable at the Projects upon the issuance by the New York City Department of Buildings of a T C of O for said unit.

This opinion is solely for your use and may not be relied on by anyone other than the U.S. Department of Housing and Urban Development without our express permission.

Very truly yours,

D'AGOSTINO, LEVINE & LANDESMAN, L.L.P.

By: 

John D'Agostino

**EXHIBIT "A"**



## Certificate of Occupancy

Page 1 of 2

CO Number: 402115661T002

This certifies that the premises described herein conforms substantially to the approved plans and specifications and to the requirements of all applicable laws, rules and regulations for the uses and occupancies specified. No change of use or occupancy shall be made unless a new Certificate of Occupancy is issued. This document or a copy shall be available for inspection at the building at all reasonable times.

<b>A.</b> Borough: Queens Address: 5-49 BORDEN AVE Building Identification Number (BIN): 4860183	Block Number: 00034 Lot Number(s): 12 Building Type: New	Certificate Type: Temporary Effective Date: 04/08/2009 Expiration Date: 06/07/2009
<i>For zoning lot metes &amp; bounds, please see BISWeb.</i>		
<b>B.</b> Construction classification: 1-C (1968 Code) Building Occupancy Group classification: J2 (1968 Code) Multiple Dwelling Law Classification: HACA		
<b>C.</b> Fire Protection Equipment: Standpipe system, Fire alarm system, Sprinkler system		
<b>D.</b> Type and number of open spaces: None associated with this filing.		
<b>E.</b> This Certificate is issued with the following legal limitations: None		
<b>Outstanding requirements for obtaining Final Certificate of Occupancy:</b> There are 25 outstanding requirements. Please refer to BISWeb for further detail.		
Borough Comments: None		

Borough Commissioner

Commissioner

DOCUMENT CONTINUES ON NEXT PAGE

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# Certificate of Occupancy

CO Number: 402115661T002

Permissible Use and Occupancy						
All Building Code occupancy group designations are 1968 designations, except RES, COM, or PUB which are 1938 Building Code occupancy group designations.						
Floor From To	Maximum persons permitted	Live load lbs per sq. ft.	Building Code occupancy group	Dwelling or Rooming Units	Zoning use group	Description of use
001	8	OG	B-2		2	STORAGE REFUSE ROOMS
001	14	OG	D-2		2	MECHANICAL ROOMS
001	12	OG	J-2		2	LOBBY, LOUNGE
001	8	OG	F-3		2	GYM
001		OG	J-2	1	2	ONE (1) APARTMENT
002 008	40		J-2	13	2	THIRTEEN (13) APARTMENTS ON EACH FLOOR
009 012	40		J-2	10	2	TEN (10) APARTMENTS ON EACH FLOOR
ROF	100		J-2		2	TENANT RECREATION AREA (26 CABANAS)
END OF SECTION						

Borough Commissioner

Commissioner

END OF DOCUMENT

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## Certificate of Occupancy

Page 1 of 2

CO Number: 402115661T001

This certifies that the premises described herein conforms substantially to the approved plans and specifications and to the requirements of all applicable laws, rules and regulations for the uses and occupancies specified. No change of use or occupancy shall be made unless a new Certificate of Occupancy is issued. *This document or a copy shall be available for inspection at the building at all reasonable times.*

<b>A.</b> Borough: Queens Address: 5-49 BORDEN AVE Building Identification Number (BIN): 4860183	Block Number: 00034 Lot Number(s): 12 Building Type: New	Certificate Type: Temporary Effective Date: 02/17/2009 Expiration Date: 04/18/2009
<i>For zoning lot metes &amp; bounds, please see BISWeb.</i>		
<b>B.</b> Construction classification: 1-C (1968 Code) Building Occupancy Group classification: J2 (1968 Code) Multiple Dwelling Law Classification: HACA No. of stories: 12      Height in feet: 123      No. of dwelling units: 138		
<b>C.</b> Fire Protection Equipment: Standpipe system, Fire alarm system, Sprinkler system		
<b>D.</b> Type and number of open spaces: None associated with this filing.		
<b>E.</b> This Certificate is issued with the following legal limitations: None		
<b>Outstanding requirements for obtaining Final Certificate of Occupancy:</b>		
There are 24 outstanding requirements. Please refer to BISWeb for further detail.		
<b>Borough Comments:</b>		
THIS TEMP CERTIFICATE OF OCCUPANCY IS FOR FLOORS 1-11 AND ROOF ONLY, EXCLUDING THE ENTIRE 12TH FLOOR,		

Borough Commissioner

Commissioner

DOCUMENT CONTINUES ON NEXT PAGE



# Certificate of Occupancy

Page 2 of 2

CO Number: 402115661T001

Permissible Use and Occupancy						
All Building Code occupancy group designations are 1968 designations, except RES, COM, or PUB which are 1938 Building Code occupancy group designations.						
Floor From To	Maximum persons permitted	Live load lbs per sq. ft.	Building Code occupancy group	Dwelling or Rooming Units	Zoning use group	Description of use
001	8	OG	B-2		2	STORAGE REFUSE ROOMS
001	14	OG	D-2		2	MECHANICAL ROOMS
001	12	OG	J-2		2	LOBBY, LOUNGE
001	8	OG	F-3		2	GYM
001		OG	J-2	1	2	ONE (1) APARTMENT
001		OG	B-2		2	25 ACCESSORY PARKING SPACES
002 008	40	J-2	13		2	THIRTEEN (13) APARTMENTS ON EACH FLOOR
009 012	40	J-2	10		2	TEN (10) APARTMENTS ON EACH FLOOR
ROF	100	J-2			2	TENANT RECREATION AREA (26 CABANAS)
END OF SECTION						

2 13  
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 104

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Borough Commissioner

Commissioner

END OF DOCUMENT

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**EXHIBIT "B"**



## Certificate of Occupancy

Page 1 of 3

CO Number: 402437065T001

This certifies that the premises described herein conforms substantially to the approved plans and specifications and to the requirements of all applicable laws, rules and regulations for the uses and occupancies specified. No change of use or occupancy shall be made unless a new Certificate of Occupancy is issued. *This document or a copy shall be available for inspection at the building at all reasonable times.*

<b>A.</b>	Borough: Queens Address: 48-15 11 STREET Building Identification Number (BIN): 4862699	Block Number: 00061 Lot Number(s): 80 Building Type: New	Certificate Type: Temporary Effective Date: 03/12/2009 Expiration Date: 06/10/2009
<i>For zoning lot metes &amp; bounds, please see BISWeb.</i>			
<b>B.</b>	Construction classification: 1-D (1968 Code) Building Occupancy Group classification: J2 (1968 Code) Multiple Dwelling Law Classification: HAEA		
	No. of stories: 12	Height in feet: 125	No. of dwelling units: 72
<b>C.</b>	Fire Protection Equipment: None associated with this filing.		
<b>D.</b>	Type and number of open spaces: Parking spaces (37), Parking (14403 square feet)		
<b>E.</b>	This Certificate is issued with the following legal limitations: None		
Outstanding requirements for obtaining Final Certificate of Occupancy: There are 24 outstanding requirements. Please refer to BISWeb for further detail.			
Borough Comments: None			

Borough Commissioner

Commissioner

DOCUMENT CONTINUES ON NEXT PAGE



# Certificate of Occupancy

Page 2 of 3

CO Number: 402437065T001

Permissible Use and Occupancy						
All Building Code occupancy group designations are 1968 designations, except RES, COM, or PUB which are 1938 Building Code occupancy group designations.						
Floor From To	Maximum persons permitted	Live load lbs per sq. ft.	Building Code occupancy group	Dwelling or Rooming Units	Zoning use group	Description of use
CEL			J-2		2B	ACCESSORY (22) PARKING SPACES
CEL			D-2		2B	MECHANICAL ROOM
CEL		OG	B-2		2B	TENANT STORAGE,
OSP		100	J-2		2B	OUTSIDE RECREATION AREA
001		40	J-2		2B	ACCESSORY (15) PARKING SPACES
001		40	J-2		2B	ACCESSORY EXERCISE ROOM
001		40	J-2		2B	LOBBY, LOUNGE
002		40	J-2	7	2	(7) CLASS 'A' APARTMENTS
003		40	J-2	7	2	(7) CLASS 'A' APARTMENTS
004		40	J-2	7	2	(7) CLASS 'A' APARTMENTS
005		40	J-2	7	2	(7) CLASS 'A' APARTMENTS
006		40	J-2	7	2	(7) CLASS 'A' APARTMENTS
007		40	J-2	7	2	(7) CLASS 'A' APARTMENTS

Borough Commissioner

Commissioner

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# Certificate of Occupancy

Page 3 of 3

CO Number: 402437065T001

Permissible Use and Occupancy						
All Building Code occupancy group designations are 1968 designations, except RES, COM, or PUB which are 1938 Building Code occupancy group designations.						
Floor From To	Maximum persons permitted	Live load lbs per sq. ft.	Building Code occupancy group	Dwelling or Rooming Units	Zoning use group	Description of use
008		40	J-2	6	2	(6) CLASS 'A' APARTMENTS
009		40	J-2	6	2	(6) CLASS A APTS.
010		40	J-2	6	2	(6) CLASS A APTS.
011		40	J-2	6	2	(6) CLASS A APTS.
012		40	J-2	6	2	(6) CLASS A APTS.
ROF	31	100	J-2		2	TENANT RECREATION SPACE (15 CABANAS) 31 MAX OCCUPANTS.
ROF						MECHANICAL & ELEVATOR ROOMS
END OF SECTION						

Borough Commissioner

Commissioner

END OF DOCUMENT

402437065T001 3/12/2009 10:10:37 AM

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**EXHIBIT "C"**